

RECEIVED

June 11, 2001

JUN 11 2001

Rosenman & Colin LLP
805 15th Street NW
Washington DC 20005-2212

Telephone: (202) 216-4600
Facsimile: (202) 216-4700
web site: www.rosenman.com

BY HAND

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie R. Salas, Esq.
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: Amendment of Section 73.202(b) of the Table of Allotments for PINESDALE, MONTANA

Client No. 043209-84672

MM Docket No. 01-93; RM-10076

Dear Ms. Salas:

Transmitted herewith, on behalf of IDAHO BROADCASTING CONSORTIUM, INC. ("IBC"), and in reference to the above-referenced rulemaking proceeding is an original and four (4) copies of IBC's "COMMENTS" respecting the rule making proceeding pertaining to the substitution of Channel 294C1 for Channel 294C2 at McCall, Idaho, and reallocation of Channel 294C1 from McCall, Idaho, to Pinesdale, Montana (MM Docket No. 01-93; RM-10076).

Should further information be desired in connection with this matter, kindly communicate directly with this office.

Very truly yours,


Laura A. Otis

Enclosures (5)

cc(w/1 enc.): Mr. Frederic W. Constant
Mr. Jefferson Brock

LWS/dml

No. of Copies rec'd 04
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C., 20554

RECEIVED
JUN 11 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	MM Docket NO. 01-93
Amendment of Section 73.202(b))	RM No. 10076
FM Table of Allotments,)	
(McCall, Idaho and Pinesdale, Montana))	

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

COMMENTS

IDAHO BROADCASTING CONSORTIUM, INC. ("IBC"), permittee of Channel 294C2, McCall, Idaho (BPH-19971023MD), by its attorney and pursuant to the Notice of Proposed Rule Making, DA 01-1015, MM Docket No. 01-93, RM-10076, released on April 20, 2001 ("*NPRM*"), hereby submits its comments in support of the substitution of Channel 294C1 for Channel 294C2 at McCall, and reallocation of Channel 294C1 from McCall to Pinesdale, Montana. In support whereof, the following is respectfully submitted:

1. Pursuant to the Commission's request in the NPRM, IBC hereby clarifies that, in addition to the reallocation of Channel 294C1 to Pinesdale, Montana, it is seeking the substitution of Channel 2941 for Channel 294C2 at McCall, Idaho, and the modification of its construction authorization (BPH-19971023MD) accordingly.

2. IBC hereby incorporates by reference its Petition for Rulemaking ("*Petition*") dated January 23, 2001, that demonstrates that the grant of the requested substitution and reallocation would be fully consistent with the Commission's FM allotment priorities,¹ and Sec-

¹ The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is afforded priorities (2) and (3). See *Second Report and Order*, BC Docket No. 80-130, 90 FCC 2d 88 (1982).

tion 307(b) of the Communications Act, which requires the Commission to provide a “fair, efficient and equitable distribution of radio service” to the various states and communities within them.

3. Specifically, IBC’s Petition demonstrates that grant of its proposal will result in a preferential arrangement of allotments as the reallocation will provide Pinesdale, Montana with its first local service while not depriving McCall, Idaho of its local service. As demonstrated in the attached engineering study prepared by Mr. Jefferson Brock, full-time commercial FM Stations KDZY and KMCL are currently licensed to McCall.²

4. IBC’s Petition provides the Commission with sufficient evidence to establish that the town of Pinesdale, with an estimated population of 1,052, is a *bona fide* community for allotment purposes. The Petition demonstrates, for example, that Pinesdale is an exceptionally cohesive, close-knit Mormon community where residents are actively involved in the town’s political, social and economic affairs, and participate in local governmental decisionmaking through their Town Meeting form of government. Moreover, as shown in the Petition, Pinesdale has its own police and fire departments, post office and zip code (59841), town library, a water treatment facility, various businesses, and a private school, Pines Academy. A finding that Pinesdale constitutes a community for allotment purposes would be in accordance with leading Commission decisions on the subject.³

5. The attached engineering study responds to the Commission’s request for “information regarding areas and populations that will gain service as well as those that will lose service if Channel 294C1 is reallocated to Pinesdale,” including “the total reception services

² Non-commercial FM Stations KBSK, KBSQ and KBSM also are authorized to operate from McCall, ID.

³ See, e.g., *Kenansville, Florida*, 10 FCC Rcd 9831 (1995); *Beacon Broadcasting*, 2 FCC Rcd 3469 (1987); *Seven Locks Broadcasting Co.*, 37 FCC 82 (1964).

that are now available within the gain and loss areas.”⁴ As shown in this study, the reallocation will provide service to 30,472 persons in 16,422.1 square kilometers, with no actual loss of service in McCall, since IBC has not constructed the McCall station. Further, the reallocation will provide new service to 4,436 persons in 9,802.4 square kilometers. The study also shows that 485 persons in 445.3 square kilometers would theoretically lose its first service, based on the maximum theoretical 60 dBU contour radius of 52 kilometers. However, as Mr. Brock explains in his statement, “when the authorized McCall construction permit contour is used, there is no loss of first service area, since the contour does not actually extend as far north as the theoretical contour.”⁵

6. Importantly, the Commission has repeatedly stated that the removal of an unbuilt station from a community does not present the same concerns represented by the removal of an operating station, because the potential service of an unbuilt station is not a service that the public has become reliant upon.⁶ Since the proposed reallocation will result in first local service to Pinesdale, with no disruption of service to McCall, the proposal should be adopted, and IBC’s construction permit should accordingly be modified to specify operation on Channel 294C1 at Pinesdale.

7. As demonstrated in IBC’s Petition and confirmed by the Commission’s engineering staff, Channel 294C1 can be allotted to Pinesdale at coordinates N 46-10-07, W 114-17-06 in compliance with the Commission’s spacing requirements and city grade coverage will be provided to the community.⁷

⁴ NPRM, at 2.

⁵ Engineering Statement, at 2, footnote 4.

⁶ See, e.g., *Chatom and Grove Hill, Alabama*, 12 FCC Rcd 7664, ¶ 4 (1997); *Sanibel and San Carlos park, Florida*, 10 FCC Rcd 7215, ¶ 9 (1995); *Pawley’s Island and Atlantic Beach, South Carolina*, 8 FCC Rcd 8657, ¶ 2 (1993); *Glencoe and LeSeur, Minnesota*, 7 FCC Rcd 7651, ¶ 2 (1992).

⁷ See NPRM, at 2, ¶ 3.

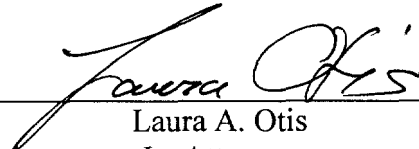
8. IBC hereby restates its intention to file an application for modification of the construction permit BPH-19971023MD to construct and operate the FM facility on Channel 294C1, at Pinesdale, Montana, if the proposal is adopted.

WHEREFORE, in light of the foregoing, IBC respectfully urges the Commission to adopt the proposal set out in the NPRM, and to amend Section 73.202(b) of the Commission's Rules to allot Channel 294C1 at Pinesdale, Montana, as that community's first local aural service.

Respectfully submitted,

**IDAHO BROADCASTING
CONSORTIUM, INC.**

By: _____


Laura A. Otis
Its Attorney

ROSENMAN & COLIN LLP
805 15th Street, N.W., 9th Floor
Washington, D.C. 20005-2212
Tel: 202-216-4653; Fax: 202-216-4700

Dated: June 11, 2001

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

TECHNICAL COMMENTS
MM DOCKET #01-93
IDAHO BROADCASTING CONSORTIUM
ALLOT CHANNEL 294C1
PINESDALE, MONTANA
June 2001

TECHNICAL EXHIBIT

Copyright 2001

TECHNICAL COMMENTS
MM DOCKET #01-93
IDAHO BROADCASTING CONSORTIUM
ALLOT CHANNEL 294C1
PINESDALE, MONTANA
June 2001

TECHNICAL STATEMENT

1. This technical statement and attached exhibits were prepared on behalf of Idaho Broadcasting Consortium ("IBC"), permittee of a new FM station on Channel 294C2 at McCall, Idaho. IBC is also the petitioner in MM Docket #01-93, seeking the upgrade of the outstanding permit at McCall to Channel 294C1 and the re-allotment of the improved channel to Pinesdale, Montana, as that community's first locally licensed transmission facility.

2. In the Notice of Proposed Rule Making ("Notice"), the Commission requested that IBC submit a gain and loss area study showing the number of reception services in both areas. In its request, IBC noted that the removal of Channel 294C2 from McCall would not create any grey area, nor leave McCall without a licensed, full-time transmission service.

DISCUSSION

3. A study of the available services in both the gain and loss areas has been undertaken.¹ Exhibit #1 is a map depicting the theoretical contour of a maximum Class C2 facility operating

1) The service areas of the McCall C2 and Pinesdale C1 facilities are based on 60 dBu contour radii of 52 kilometers and 72 kilometers respectively. For reference, there are 9,858 persons in 8,494.8 square kilometers within the theoretical McCall 60 dBu contour. There are 30,472 persons in 16,422.1 square kilometers within the theoretical Pinesdale 60 dBu contour. Because the McCall permit is unbuilt, it is considered as only theoretical service for this reception services analysis. Consequently, in keeping with the policies of the Allocation Branch in reviewing reception services, the fixed service radius of 52 kilometers is used rather than the authorized permitted service area contour containing 8,694 persons in 5,565.9 square kilometers.

at McCall and those AM and FM stations which provide service to that area.² A tabulation of those stations is attached as Exhibit #2. Based on the facilities depicted, within the area predicted to receive service from the construction permit at McCall, there is an area of 485 persons in 445.3 square kilometers³ that would theoretically lose its first service, as detailed in Exhibit #3.⁴

4. Exhibit #4 depicts the number of services within the predicted theoretical gain area, based on the re-allotment of Channel 294C1 to Pinesdale, Montana. The other AM and FM facilities providing service to the gain area are tabulated on Exhibit #5. A more detailed map, attached as Exhibit #6, depicts the under-served areas. As shown, the proposed Pinesdale facility will provide first service to 464 persons in 5,387.3 square kilometers. The proposed Pinesdale facility will also provide second service for 1,308 persons in 1,266.2 square kilometers. There are 79 persons who will receive third service in 569.9 square kilometers, based on the re-allotment. An additional 1,115 persons within 1,017.1 square kilometers that will receive fourth service as a result of this proposal and an additional 1,470 persons in 1,561.9 square kilometers that will receive a fifth reception service. In total, the gain area will provide service to 4,436 persons in 9,802.4 square kilometers who are currently under-served.

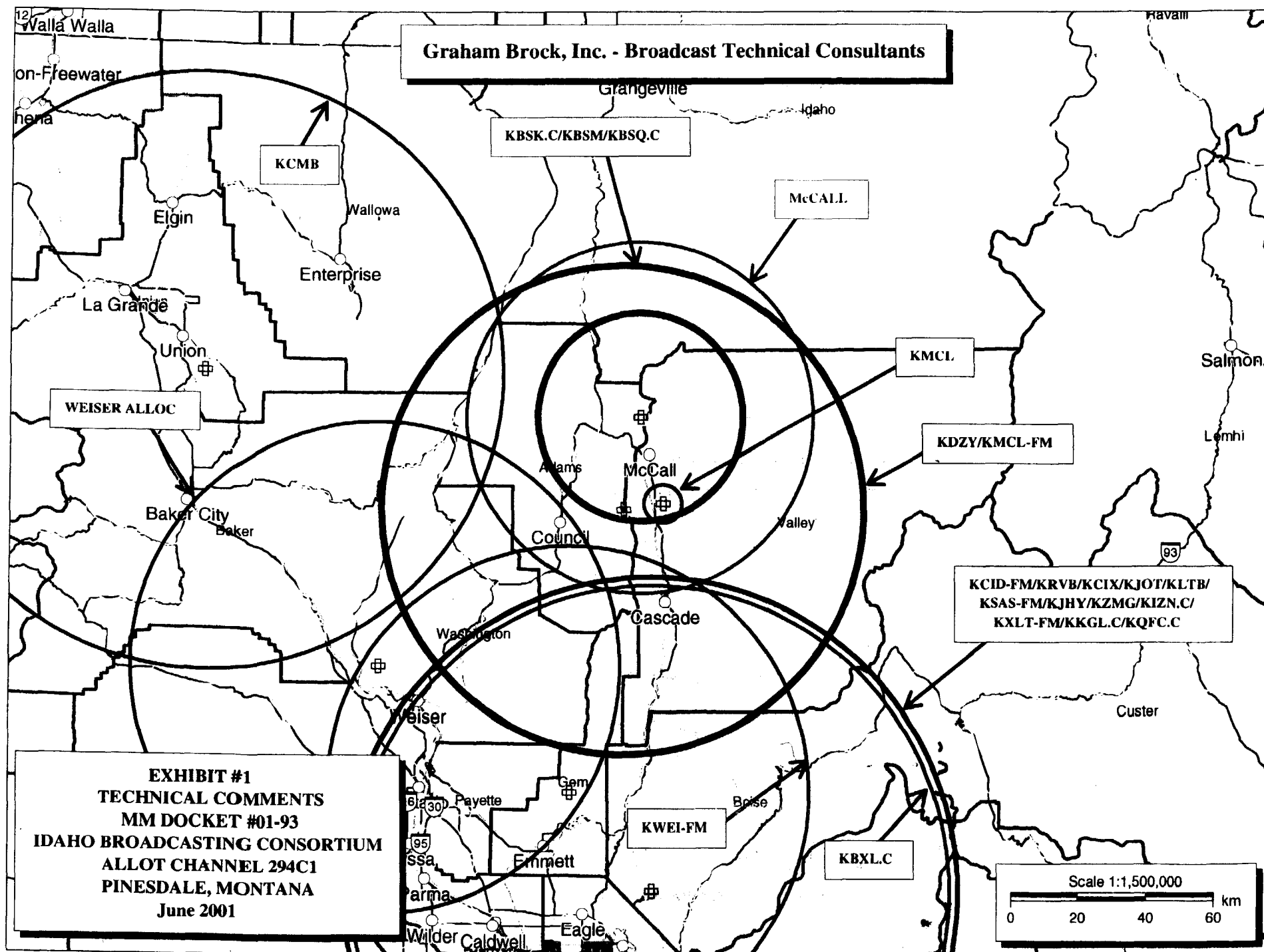
-
- 2) For all commercial FM stations, with the exception of Class C, maximum class contours were used. For Class C facilities, the contours were based on their respective authorizations or, in the case of vacant allotments, minimum values for the Class. For non-commercial FM stations the facilities' actual licensed values were used to determine the reference distance to the 60 dBu contour. Since no Class A AM facilities impacted the area, the nighttime interference free contours of Class B and C facilities were used where applicable. In the case of Class D stations, due to the high level of interference, the 25.0 mV/m contours were used.
 - 3) The area and population calculations were made using the computer program "Probe 2". The population is in a block census form, with a 1.5 kilometer resolution, extracted from the 2000 Census.
 - 4) This loss of first service is based on the 60 dBu contour radius of 52 kilometers. When the authorized McCall construction permit contour is used, there is no loss of first service area, since the contour does not actually extend as far north as the theoretical contour.

5. The proposed re-allotment will not deprive McCall of its only local service⁵ and will provide Pinesdale with its first local transmission service. Further, while there is a small loss of theoretical first service to 485 persons, the re-allotment will provide first through fifth services to the area in and around Pinesdale.⁶ Additionally, the re-allotment will provide service to 30,472 persons in 16,422.1 square kilometers, with no actual loss of service in McCall, since the permit has not been activated. Further, the re-allotment will provide first through fifth new service to 4,436 persons in 9,802.4 square kilometers. Based on the foregoing, IBC respectfully requests the upgrade of Channel 294C2 to Channel 294C1 and the re-allotment of the channel to Pinesdale, Montana.

6. The foregoing statement was prepared on behalf of Idaho Broadcasting Consortium by Graham Brock, Inc. its Technical Consultants. All information contained herein is true and accurate to the best of our belief and knowledge. All data relating to AM and FM facilities was extracted from the pertinent CDBS database. We assume no liability for errors or omissions in this database which may be adverse to the information contained herein.

5) Full-time commercial FM Stations KDZY and KMCL-FM are licensed to McCall. In addition, non-commercial FM stations KBSK, KBSQ and KBSM are licensed to McCall.

6) See Footnote 3 supra.



TECHNICAL COMMENTS
MM DOCKET #01-93
IDAHO BROADCASTING CONSORTIUM
ALLOT CHANNEL 294C1
PINESDALE, MONTANA
June 2001

EXHIBIT #2

Tabulation of Stations Considered in Gain/Loss Area of
Channel 294C2 at McCall, Idaho

AM Stations

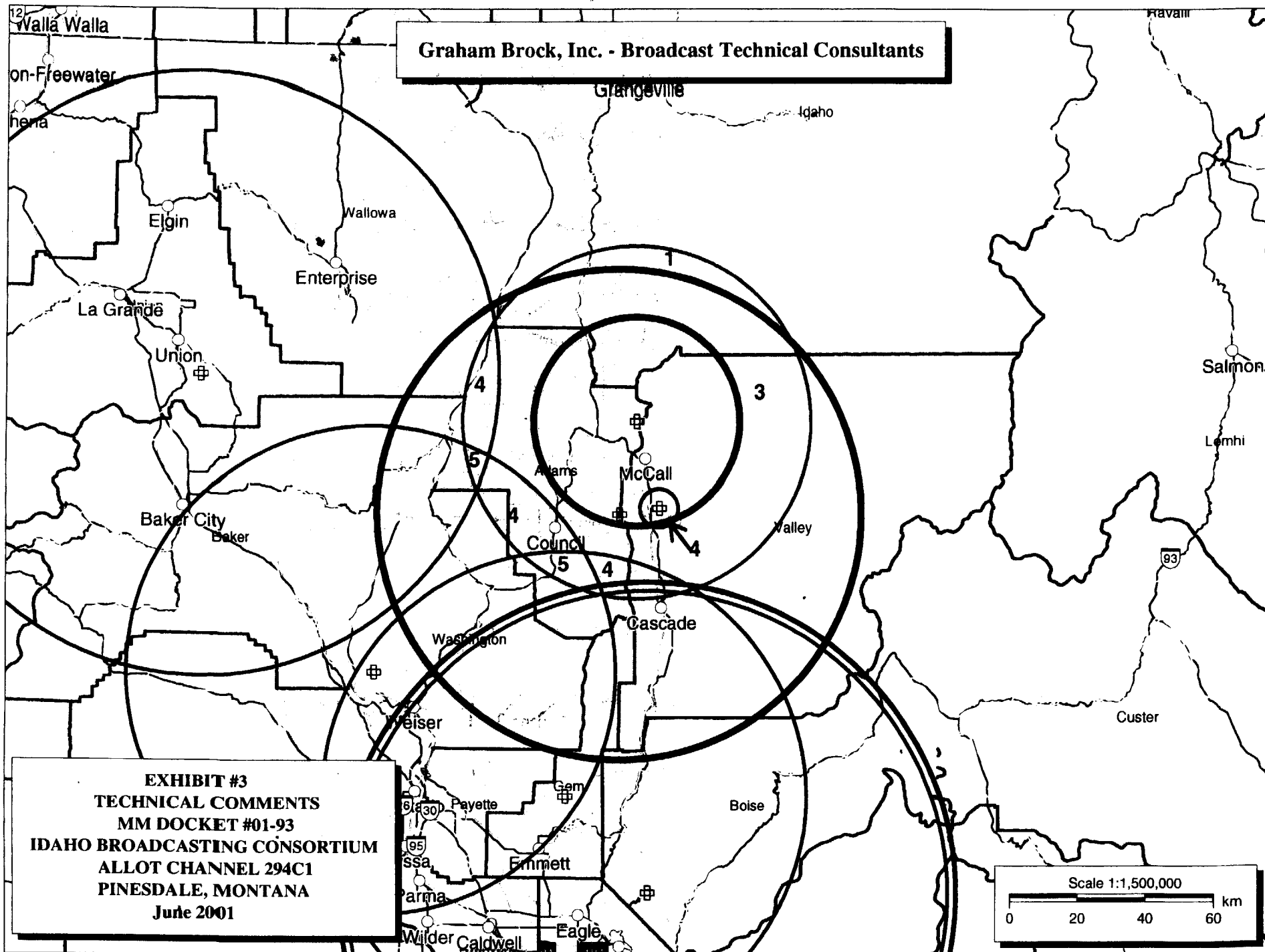
Call Sign	Frequency	Power	Contour Depicted	City/State
KMCL	1240 kHz	1.0 kW ND	25.0 mV/m	Donnelly, ID

FM Stations

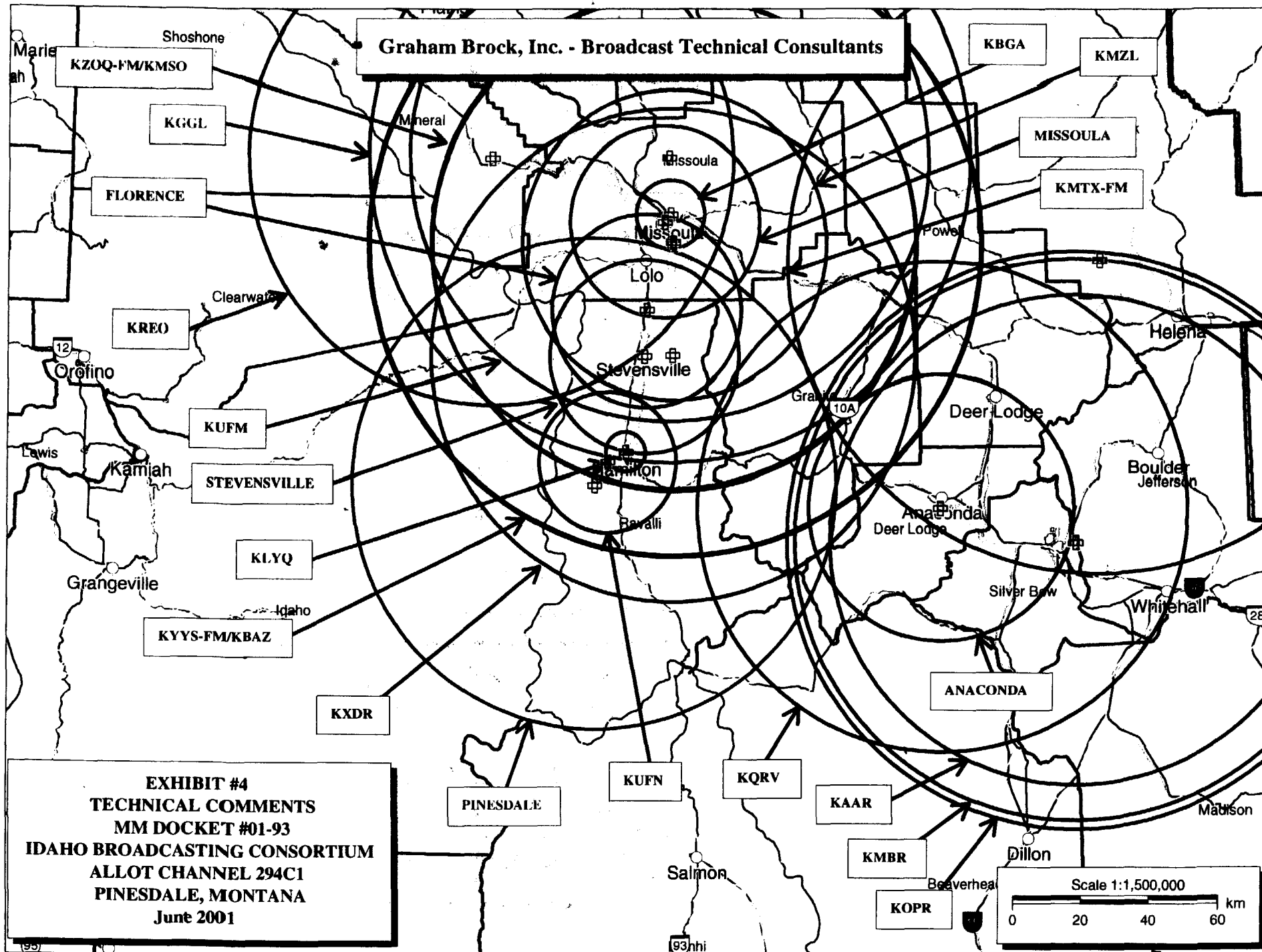
Call Sign	Channel	Power	Service Radius	City/State
KBSK.C	210C3	0.22 kW	30.7 km	McCall, ID
KSBQ.C	214C3	0.22 kW	30.8 km	McCall, ID
KSBM	219C3	0.22 kW	30.7 km	McCall, ID
KIZN.C	222C	48.00 kW	92.3 km	Boise, ID
KZMG	226C	50.00 kW	91.9 km	New Plymouth, ID
KBXL.C	231C	40.00 kW	89.6 km	Caldwell, ID
KRVB	235C	49.00 kW	92.3 km	Nampa, ID
KKGL.C	245C	48.00 kW	92.3 km	Nampa, ID
KQFC.C	250C	48.00 kW	92.3 km	Boise, ID
KDZY	252C1	3.90 kW	72.0 km	McCall, ID
KWEI-FM	258C1	8.00 kW	72.3 km	Fruitland, ID
KMCL-FM	266C1	3.90 kW	72.3 km	McCall, ID
KJHY	270C	57.00 kW	92.3 km	Emmett, ID
KSAS-FM	277C	54.00 kW	92.2 km	Caldwell, ID
Allocation	280C1	0.00 kW	72.3 km	Weiser, ID
KLTB	282C	52.00 kW	91.8 km	Boise, ID
KCMB	284C	100.00 kW	88.6 km	Baker, OR
KJOT	286C	53.00 kW	92.1 km	Boise, ID
KCIX	290C	49.00 kW	92.3 km	Garden City, ID
KCID-FM	296C	49.00 kW	91.9 km	Caldwell, ID
KXLT-FM	300C	45.00 kW	91.3 km	Eagle, ID

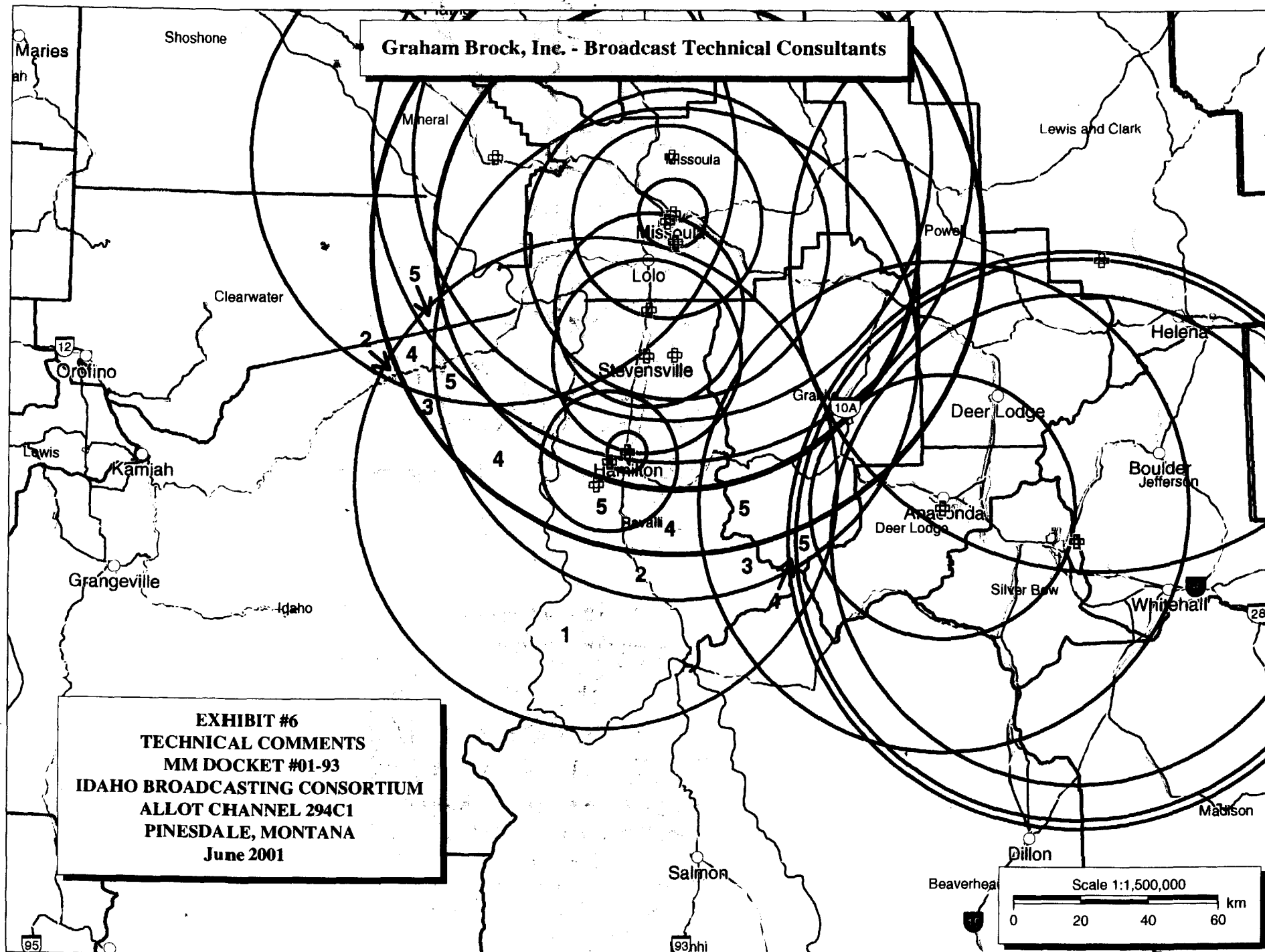
NOTE: All presently vacant FM allotments were considered as part of this reception services analysis.

Graham Brock, Inc. - Broadcast Technical Consultants



**EXHIBIT #3
TECHNICAL COMMENTS
MM DOCKET #01-93
IDAHO BROADCASTING CONSORTIUM
ALLOT CHANNEL 294C1
PINESDALE, MONTANA
June 2001**





TECHNICAL COMMENTS
MM DOCKET #01-93
IDAHO BROADCASTING CONSORTIUM
ALLOT CHANNEL 294C1
PINESDALE, MONTANA
June 2001

EXHIBIT #5

Tabulation of Stations Considered in Gain/Loss Area of
Channel 294C1 at Pinesdale, Montana

AM Stations

Call Sign	Frequency	Power	Contour Depicted	City/State
KLYQ	1240 kHz	1.0 kW ND	25.0 mV/m	East Missoula, MT

FM Stations

Call Sign	Channel	Power	Service Radius	City/State
KUFM	206C	14.50 kW	77.3 km	Missoula, MT
KBGA	210A	1.00 kW	10.2 km	Missoula, MT
KMZL	216C2	1.00 kW	45.5 km	Missoula, MT
KUFN	220A	0.90 kW	20.6 km	Hamilton, MT
KAAR	223C1	4.50 kW	72.3 km	Butte, MT
KGGL	227C	43.00 kW	89.5 km	Missoula, MT
KOPR	231C	60.00 kW	85.2 km	Butte, MT
KYSS-FM.C	235C	84.00 kW	91.2 km	Missoula, MT
KMBR	238C	50.00 kW	92.8 km	Butte, MT
KBAZ	242C	85.00 kW	91.3 km	Hamilton, MT
KQRV	245C1	20.00 kW	72.3 km	Deer Lodge, MT
Allocation	249C3	0.00 kW	39.1 km	Anaconda, MT
KXDR	254C1	100.00 kW	72.3 km	Hamilton, MT
KZOQ-FM	261C1	13.50 kW	72.3 km	Missoula, MT
KMSO	273C1	14.00 kW	72.3 km	Missoula, MT
Allocation	278A	0.00 kW	28.3 km	Florence, MT
Allocation	283A	0.00 kW	28.3 km	Stevensville, MT
KMTX-FM	287C	100.00 kW	91.6 km	Helena, MT
Allocation	290A	0.00 kW	28.3 km	Missoula, MT
KREO.C	298C1	100.00 kW	72.3 km	Superior, MT

NOTE: All presently vacant FM allotments were considered as part of this reception services analysis.

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

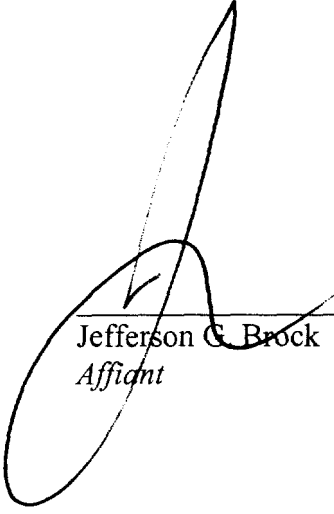
State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Idaho Broadcasting Consortium to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 4th day of June, 2001.



Jefferson G. Brock
Affiant

*Sworn to and subscribed before me
this the 4th day of June, 2001.*



Notary Public, State of Georgia
My Commission Expires: April 20, 2002